



Code of Meeting Practice

A New Meeting Code

Penrith City Council Submission to the Office of Local
Government February 2025

Introduction

Penrith City Council thanks the Office of Local Government (OLG) for the opportunity to make this submission on the proposed amendments to the Model Code of Meeting Practice for Local Councils (the Model Meeting Code).

Council urges the OLG to carefully consider all submissions received, ensuring that any contentious issues are resolved in a manner that benefits the effective operation of councils and the best interests of their communities.

The submission, prepared by Council officers in consultation with Councillors, supports the principles informing the proposed reforms and many of the proposed changes. It does however raise concerns with some proposed amendments.

In particular, Council is concerned with the proposal to ban Councillor Briefings and suggests further clarification and consideration of this issue is needed.

It is Penrith City Council's long-standing practice that Councillor Briefings are not decision-making forums but are used for essential consultation and engagement between Councillors and staff during the development of policies, strategies and other works. On occasions, other government agencies (including State Government Departments) and various technical experts also brief Councillors on important issues in these forums.

Please consider Council's responses to the proposed amendments in the table below. Council is willing to provide further information if needed and would welcome the opportunity to participate in any further engagement opportunities.

Proposal	Summary of Change	Council Response
Principles of Change: PROMOTING TRANSPARENCY, INTEGRITY, AND PUBLIC PARTICIPATION		
<p>Removing pre-meeting Councillor Briefings.</p>	<p>Delete clauses 3.33 to 3.38 of the Model Code prescribing 'Pre-meeting briefing sessions.</p> <p>It is expected that any material provided to councillors, other than the mayor, that will affect or impact or be considered by councillors in their deliberations or decisions made on behalf of the community must be provided to them in either a committee meeting or council meeting.</p> <p>The proposed restrictions on briefing sessions are expected to be prescribed in the Regulation.</p>	<p>Not Supported.</p> <p>Council agrees that closed pre-meeting briefing sessions should not be used for decision making purposes and does not conduct councillor briefings in the manner suggested by the Consultation Paper.</p> <p>However, more general councillor briefings (not linked to specific ordinary meetings) are necessary for staff to consult with Councillors during the development of policies, strategies, and other works. It is unclear whether the proposed ban would apply to these more general types of councillor briefings, and if so, what other mechanisms will be available for these vital, informative consultations to occur.</p> <p>It should be noted that all government records (including briefing information) are subject to the provisions of the Government Information Public Access Act, ensuring that access to government information is restricted only when there is an overriding public interest against releasing that information.</p> <p>It should also be noted that section 232 of the Local Government Act requires that a Councillor is to make considered and well-informed decisions. While decisions are not made at Councillor Briefings, the information provided in those settings (during the development phase of policies, strategies and other works)</p>

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		<p>supports a Councillor’s role as prescribed by the legislation. Banning briefing sessions could create conditions that make it difficult for Councillors to be fully informed, potentially impacting on later decision-making.</p> <p>Penrith City Council is concerned about the impact of the proposed changes on its ability to carry out its functions effectively, efficiently and in an appropriately informed manner. It is suggested the OLG should delay the proposed ban on briefings and consult further on this matter. Importantly, Councils should be given the opportunity to review and provide feedback on the actual proposed legislative amendments (i.e. the proposed changes to the Regulation). There has been considerable objection from councils in response to this proposal, indicating that further clarity, consultation, and consideration is required.</p>
<p>Requiring information considered at closed meetings to be made public after it ceases to be confidential – ICAC recommendation.</p>	<p>Add clauses 14.19, 14.20, 20.20, and 20.21: It is proposed that the general manager, after consulting with the council, be required to publish business papers for items considered in closed meetings on the council’s website after the information in them ceases to be confidential.</p>	<p>Not Supported.</p> <p>Council supports the principle of making confidential information considered at a closed meetings publicly available after it ceases to be confidential. However, this may be practically difficult to implement (e.g. monitoring and determining what information is no longer confidential and when). Council suggests the GIPA Act already provides an appropriate mechanism for gaining access to information from closed meetings. It provides a trigger to carry out the necessary</p>

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		public interest tests and consultations and provides the applicant with appeal rights.
Requiring recordings of meetings to be published on council websites for longer.	Amend clause 5.38 to require the recording of a meeting is to be made publicly available on the council's website for at least 12 months after the meeting or for the balance of the council's term, whichever is the longer period.	<p>Supported.</p> <p>This is the current practice at Penrith City Council.</p>
Providing that councils must not make final planning decisions without a staff report containing an assessment and recommendation and requiring councils to give reasons where they make a decision on a planning matter that departs from the recommendation.	<p>Add clauses 11.12 and 11.13:</p> <ul style="list-style-type: none"> • The council or a council committee must not make a final planning decision without receiving a staff report containing an assessment and recommendation in relation to the matter put before the council for a decision. • Where the council or a council committee makes a planning decision that is inconsistent with the recommendation made in a staff report, it must provide reasons for its decision and why it did not adopt the staff recommendation. 	<p>Supported.</p>
<p>Principles of Change: PROMOTING DIGNITY OF THE COUNCIL CHAMBER</p>		

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The mayor will be permitted to call extraordinary meetings without a request.	Add clause 3.3 - The mayor may call an extraordinary meeting without the need to obtain the signature of two (2) councillors.	Supported.
Removing restrictions on mayoral minutes.	<p>Amend clause 9.7 - If the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that the mayor determines should be considered at the meeting.</p> <p>Delete current clauses 9.9 (urgent matters) and 9.10 (funding sources).</p>	<p>Partially Supported.</p> <p>Council agrees with enhancing the authority of the Mayor. However, it opposes the removal of clause 9.10 that requires the identification of a funding source and deferring consideration of a matter (pending a report from the General Manager) where a funding source is not identified.</p> <p>Should a mayoral minute have financial and/or resourcing implications, it is appropriate for the Council to defer consideration of that matter until further information available.</p> <p>Councillors deciding on a Mayoral Minute ought to be provided with an assessment of legal, strategic, financial, or policy implications to assist in their decision making. A well-researched written analysis assists with evidence-based decision making, protects the organisation against financial and other risks, and allows for greater public scrutiny of decisions made.</p>
Councillors to stand when addressing the meeting (including the COW) and when the mayor enters the chamber.	Add clause 7.1 - Where they can, councillors and staff must stand when the mayor enters the chamber and when addressing the meeting.	<p>Supported (with amendment).</p> <p>Council would like to suggest the proposed clause be reworded to the following: <i>"If able, Councillors and staff must stand when the Mayor enters the chamber"</i>.</p>

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Mandating modes of address at meetings.	Amend clause 7.3 – Where the chairperson is not the mayor, add “Chair” as a mode of address to the existing options of ‘Mr Chairperson’ and ‘Madam Chairperson’.	Supported.
Removing the option for councils to reduce the duration of speeches.	Delete current clause 10.24 – Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.	Supported. The Code provides that a Councillor is permitted to speak for no longer than five minutes without the consent of the chairperson. Removing this clause provides greater equity for Councillors wishing to speak on a matter.
Making clear to the community that decisions are made in council meetings and not in other forums that the community can't access, like briefing sessions.	Principles based (no single direct amendment included).	Supported. This is consistent with current practices at Penrith City Council. Please refer to Proposal (Removing pre-meeting Councillor Briefings) for other related comments.
Changes to the definitions of disorder.	Amend clause 15.10(d) to include the following as acts of disorders – insults, makes unfavourable personal remarks about, or imputes improper motives to any other council official, or uses any language, words or gestures that would be regarded as disorderly in the NSW Legislative Assembly. It is noted the amendment includes removing the making of an allegation of a	Supported. The proposed amendments appear reasonable, and it is agreed that an allegation of a breach of the Code of Conduct should not be considered an act of disorder.

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	breach of the Code of Conduct from being an act of disorder.	
<p>Providing as a default that councillors are to attend meetings in person (except ill health, another medical reason, and unforeseen caring responsibilities).</p>	<p>Amend clause 5.19 - Councillors may attend and participate in meetings of the council and committees of the council by audio-visual link with the approval of the council or the relevant committee where they are prevented from attending the meeting in person because of ill-health or other medical reasons or because of unforeseen caring responsibilities.</p>	<p>Partially Supported.</p> <p>Council believes the proposed reasons to allow for attendance by audio-visual link (ill-health or other medical reasons or because of unforeseen caring responsibilities) are too constrained. Councils should be able to determine (and add to their Meeting Code) the extenuating circumstances that should apply. Other legitimate reasons might include for example, business related travel, family emergencies and attendance at funerals. Councils are judged by their communities on their performance. The adopted Meeting Code is publicly available, as are the records of attendance at meetings. Communities can therefore observe and comment on the rules, and judge Councillor attendance and performance. Ultimately, it is better to make provisions that allow for greater attendance and participation, rather than less participation.</p> <p>It is also submitted, that the word “unforeseen” should be removed. Caring responsibilities may be a legitimate reason regardless of whether they are unforeseen or not. It may also be difficult in some circumstances to determine what is unforeseen and what isn’t. This is particularly important in situations for example that involve disability, age, young children etc.</p>

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Councillors will not be permitted to participate in meetings at which a mayoral election is being held by audio visual link.	Add clause 5.20 - Clause 5.19 (attendance by Councillors by audio-visual link) does not apply to meetings at which a mayoral election is to be held.	<p>Partially Supported.</p> <p>Council supports the notion that Mayoral/Deputy Mayoral elections cannot be participated in by audio visual link (mainly for practical reasons). However, it is suggested the clause should be specific to not participating in the election, rather than precluding participation in the remainder of the meeting (for consideration of other items).</p>
Restricting the circumstances in which the council may withhold a leave of absence.	Add clause 5.7 - Clause 5.4 (the granting of leave) does not prevent a councillor from making an apology if they are unable to attend a meeting. Where a councillor makes an apology, the council will be deemed to have accepted the apology and granted them a leave of absence for the meeting for the purposes of section 234(1)(d) of the Act unless the council resolves not to accept the apology or to grant a leave of absence for the meeting. Where the council resolves not to accept an apology.	<p>Supported.</p>
Removing the option for staff to attend meetings by audio visual link.	Delete clause 5.44 - The general manager and other council staff may attend meetings of the council and committees of the council by audio-visual-link. Attendance by council staff at meetings by audio-visual	<p>Not Supported.</p> <p>Council submits the Meeting Code should allow the General Manager and staff the opportunity to attend Council and committee meetings by audio-visual link if they are prevented</p>

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	<p>link (other than as members of the public) shall be with the approval of the general manager.</p>	<p>from attending the meeting in person due to extenuating reasons (potentially for similar reasons as Councillors). Additionally, Council meetings are typically held outside of regular business hours, requiring staff to attend beyond their standard working hours. Allowing remote attendance for staff in certain situations is both fair and appropriate, ensuring they are more accessible when needed. This may be especially important for rural or remote councils.</p>
<p>Strengthening the deterrence against disorder by providing greater authority to the Chairperson.</p>	<p>Add clause 15.12 and 15.13:</p> <ul style="list-style-type: none"> • A failure to comply with a requirement under clause 15.11 constitutes a fresh act of disorder for the purposes of clause 15.10. • Where a councillor fails to take action in response to a requirement by the chairperson to remedy an act of disorder under clause 15.11 at the meeting at which the act of disorder occurred, the chairperson may require the councillor to take that action at each subsequent meeting until such time as the councillor complies with the requirement. 	<p>Supported.</p>

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Principles of Change: DEPOLITICISING THE ROLE OF THE GENERAL MANAGER		
<p>Removing the requirement for general managers to prepare reports for notices of motion.</p>	<p>Delete clauses 3.12, 3.13, 9.10, and 10.9 (relating to the identification of funding sources for motions and Mayoral Minutes).</p>	<p>Not Supported.</p> <p>The Consultation Paper proposes general managers will no longer be required to prepare reports on notices of motion with financial implications or to identify funding sources where a notice of motion proposes expenditure that has not be budgeted for. The OLG suggests this will help to depoliticise the role of the General Manager.</p> <p>It is submitted that Councillors deciding on a notice of motion ought to be provided with an assessment of legal, strategic, financial, or policy implications to assist in their decision making, and that a report or written notice to all Councillors by the General Manager is the appropriate mechanism for providing that information. In providing the analysis, a General Manager need not provide a recommendation on whether the motion should be supported. A researched and well-prepared written analysis assists evidence-based decision making, protects the organisation (and community) against financial and other risks, and allows for greater public scrutiny of decisions made.</p>
<p>Providing that the Mayor, not the General Manager has discretion on whether council staff should respond to questions with notice.</p>	<p>It will be open to the mayor to rule a question with notice out of order at the meeting if it breaches the disorder provisions of the council's Meeting Code.</p>	<p>Supported.</p>

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<p>Conferring responsibility to the council to determine staff attendance at meetings</p>	<p>Amend clause 5.43 – The attendance of other council staff at a meeting, (other than as members of the public) shall be as determined by the council from time to time.</p>	<p>Not Supported.</p> <p>Staff representation in person should be determined by the General Manager. The Local Government Act provides that the General Manager is responsible for directing staff and it is suggested the General Manager is in the best position to determine the required contributions of staff. A Model Code that prescribes staff attendance at meetings shall be determined by Council (not the General Manager) potentially contravenes section 335 of the Local Government Act.</p>
<p>Principles of Change: SIMPLIFYING THE MODEL CODE OF CONDUCT</p>		
<p>Remove non-mandatory provisions around public forums. Councils are free to determine own rules.</p>	<p>Delete clauses 4.2 – 4.24 (Relating to how public forums are to be conducted).</p>	<p>Supported.</p>
<p>Simplifying the rules governing public representations to the council on the closure of meetings to the public.</p>	<p>Add clause 14.11: Council may resolve to close the meeting to the public in accordance with this Part to hear a representation from a member of the public as to whether the meeting should be closed to consider an item of business where the representation involves the disclosure of information relating to a matter referred to in clause 14.1.</p>	<p>Not Supported.</p> <p>Although Council does not strongly oppose this change, it does question how it will simplify meeting practices.</p> <p>The effect of the amendment may mean that in some circumstances, a Council would resolve to close a meeting to the public to hear a representation (from a member of the public) as to whether the meeting should be closed. And then, if</p>

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	Delete clauses 14.12 – 14.17 (Relating to how applications can be processed). Councils can determine how application are processed.	so decided after considering the representation, the Council would need to re-open the meeting to the public for consideration of that item. It is suggested a public representation on the closure of a meeting should be made in open Council, to allow for public scrutiny of the representation and Council's resulting decision.
Simple rules for dealing with urgent business without notice at meetings.	Amend clause 9.3: Business may be considered at a meeting of the council at which all councillors are present even though due notice has not been given of the business to councillors, if the council resolves to deal with the business on the grounds that it is urgent and requires a decision by the council before the next scheduled ordinary meeting. A resolution adopted under this clause must state the reasons for the urgency. Add clauses 9.4-9.5 Provide a simplified method for resolving to deal with urgent business without prior notice.	Supported.
Simplifying the rules of debate by removing the provisions allowing motions to be foreshadowed.	Delete clause 10.17 (Foreshadowed Motions) and deal only with foreshadowed amendments.	Partially Supported. The process for dealing with amendments to motions and foreshadowed motions is complicated, and it is agreed that options to simplify the Code in this regard should be considered.

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		<p>However, the ability for a Councillor to foreshadow a motion serves a purpose in decision making. It allows Councillors to consider a potential alternative motion (that is not an amendment, and that may be a direct negative of the original motion). It is noted that an amended motion cannot be a direct negative of the original motion.</p>
<p>Mandating non-mandatory provisions allowing meetings to be cancelled or held by audio visual link in the event of natural disasters and public health emergencies and those governing councillors' attendance at meetings by audio visual link.</p>	<p>Mandate clause 5.16 Where the mayor determines, a meeting of the council or a committee of the council may be held by audiovisual link because of a natural disaster or a public health emergency.</p>	<p>Supported.</p>
<p>Councillor can withdraw a notice of motion at any time.</p>	<p>Amend clause 10.3: If a councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it, they may request its withdrawal at any time. If the notice of motion is withdrawn after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the mayor is to note the withdrawal of the notice of motion at the meeting.</p>	<p>Supported.</p>

Proposal	Summary of Change	Council Response
Principles of Change: RESTRICTING COUNCILS FROM HOLDING BRIEFING SESSIONS		
Amendments proposed to the Regulation to establish methods for councillors to make decisions and receive information (excluding Councillors Briefings).	Proposed amendments to the Regulation will restrict councils from holding briefing sessions. The amendments will establish the appropriate ways councillors are to make decisions and receive information based on the principles set out in the Regulation.	Not Supported. This has been addressed above under the principles “promoting transparency, integrity, and public participation. Council suggests for clarity on the proposed amendments to the Regulation is required.
The Mayor may receive information prior to a Council/Committee meeting.	The mayor will not be subject to the restrictions on briefings and may receive information in order to undertake their functions under the Act.	Partially Supported. Council agrees that Mayors must receive information prior to a Council/Committee meeting. However, with the proposed ban on Councillor Briefings, Council is concerned whether other Councillors may be disadvantaged, which in turn could have a negative impact on decisions made in open Council. Council proposes that Councillor Briefings (that are not pre-meeting briefings) should be permitted.
Further suggestions and feedback on other proposed changes		
Remove Statement of ethical obligations.	Delete clause 3.23 requiring Business papers for all ordinary and extraordinary meetings of the council and committees of the council to contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council’s	Not Supported. It is difficult to determine the reasons for this amendment, as the Discussion Paper does not provide further details. Ethical obligations are an inherent part of how public officials operate in serving the community. The inclusion of these

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	code of conduct to disclose and appropriately manage conflicts of interest.	standards in business papers serves as an alert to these standards and advises the public of their representatives' obligations (helping to enhance public confidence in their elected officials).
Allow Questions with Notice to comprise a complaint against the General Manager or a member of staff of the council, or a question that implies wrongdoing by the General Manager or a member of staff.	Delete clause 3.15 where a councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council."	<p>Not Supported.</p> <p>It is suggested that public forums are not the appropriate place to make complaints or allegations of wrongdoing against a General Manager or a member of staff. There are appropriate processes in place for dealing with complaints and allegations of wrongdoing.</p> <p>There is the potential for complaints and allegations of wrongdoing to become defamatory if made in public forums. They may also deny the subject of the complaint or allegation, appropriate procedural fairness.</p>
Consulting the Mayor to determine business to be considered in a closed session of the meeting.	<p>Amend clause 3.18:</p> <p>Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the General Manager, is likely to take place when the meeting is closed to the public, the General Manager must, in consultation with the mayor, ensure that the agenda of the meeting:</p>	<p>Not Supported.</p> <p>The principle of consulting with the Mayor about business proposed to be conducted in a closed session of a meeting is reasonable. However, there is the potential for this to lead to the politicisation of business in some circumstances.</p> <p>At present, the test for determining whether a matter should be discussed within a closed session of a meeting is contained within <i>section 10(A)</i> of the <i>Local Government Act</i> and applied</p>

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	<p>(a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and</p> <p>(b) states the grounds under section 10A(2) of the Act relevant to the item of business.</p>	<p>prior to the publication of the meeting's business paper. This assessment is carried out by the General Manager (or delegated officer) and is appropriately documented. It is why the proposed amendment, which could have practical implications, is warranted.</p> <p>It is noted that at present, if during a meeting the Council disagrees with the General Manager's recommendation to deal with an item in closed session, the Council may determine not to move into closed session and proceed to deal with the matter in the open meeting.</p>

Conclusion

Council thanks the OLG for the opportunity to make this submission and would welcome the opportunity for future engagement on these important issues at the OLG's discretion.

For any further information regarding this submission please contact [REDACTED]

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